

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

CHARLES BERRY, Plaintiff, vs. FREEMONT INVESTMENTS, INC., HSBC BANK,
--

Paul Lawrence, Christopher Davies, Gerard Mattia and WELLS FARGO BANK,
John Stumpf, Howard Atkins, HOME EQUITY LOAN TRUST, Series ACE 2006-HEI,
Stuart Bohart, Stephen Trevor, ET. AL. Defendant(s) Case No.:

COMPLAINT FOR FRAUD And COMPLAINT FOR COLLUSION

NOW COMES, PLAINTIFF, by and through himself, who is unschooled in law and asks that the court take Judicial Notice of the enunciation of principles as stated in Haines v. Kerner, 404 U. W. 519, wherein the court has directed that those who are unschooled in law making pleadings and/or complaints shall have the court look to the substance of the pleadings rather than the form. The Plaintiff moves the court as follows:

I am filing a Complaint for Fraud and a Complaint for Collusion for the following reasons:

The mortgage note on my home is in violation of laws and regulations that have been set in place to protect the American consumer. These include but are not limited to, the **Truth in Lending Act, (TILA)**, **Consumer Protection Act, Real Estate Settlement Procedures Act, (RESPA)** at 15 USC § 1601 et seq. and 12 USC § 2601 et seq., and the **Home Ownership and Equity Protection Act or (HOEPA)**. My rights as a consumer have been grossly violated.

Furthermore, there appears to be the Case of Collusion between these

entities against CHARLES BERRY.

The year of my loan is not beyond the statue of limitations.

COUNT 1

1. FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL failed to give me the required 3 day cool off period as required by Regulation Z, Part 226 and 15 USC § 1601 et seq. This is prior to the signing of the Loan. A complete set of unsigned documents were to have been given to me to take home and review.
2. I was not given the HUD booklet on loans within 3 days of making application nor was I given a Good Faith Estimate within 3 days of making application as required by 12 USC § 2604 et seq.
3. I was not given a Good Faith Estimate within 3 days of making application. I received it at closing. (Code of Federal Regulations, Section 226.18© and 12 USC § 2601 et seq.)
4. Since I was not given a Good Faith Estimate within 3 days of making Application, a separate sheet was not provided for each of the charges summarized on the Good Faith Estimate.
5. The Borrower was not asked to sign an agreement that I did not want separate disclosures for the itemizations on the Good Faith Estimate, Settlement Statement and Truth in Lending forms as required by Title 12 Code of Federal Regulations § 226.18 et seq.
6. FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL failed to give me signed copies (Borrower and Lender) of the complete loan transaction as required by 15 USC § 1601 et seq. within a reasonable amount of time or never during the entire period of the loan agreement to date.
7. FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL has failed to make the disclosures required by 15 USC § 1601 et seq. and Title 12 Code of Federal Regulation, § 226.18, clearly and conspicuously in writing, in a form that I the borrower could keep as required by 15 USC § 1601 et seq. and Title 12 Code of Federal Regulation, § 226.18.
8. There were not statements that the consumers should refer to the appropriate contract document and clause for information about nonpayment, default, the right to accelerate as required by Title 12 Code of Federal Regulations, § 226.18 (p).

9. FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL failed to give all the required sentences in the unsigned loan documents as required by 15 USC § 1601 et seq. and Regulation Z, Part 226. et seq.

COUNT II

1. Because of this and other reasons, it leads me to believe that I may be a victim of predatory lending.
2. I am disputing the validity of the current debt you claim I owe. By debt I am referring to the principal balance claimed owed, my calculated monthly payment, calculated escrow payment and any fees claimed to be owed you or any trust or entity you may represent.
3. You as the Lender, have continued and so continue, to violate Title 15 United States Code, Section 1601 et seq., Regulation Z, Title 12 Code of Federal Regulation, Part 226, 12 USC § 2601 et seq., 12 Code of Federal Regulations, part 3500 and 31 USC § 1901 which was adopted pursuant to the Consumer Protection Act by failing to properly make disclosures.
4. As a result of Lender's aforesaid violations, WELLS FARGO BANK ET AL is liable to Borrowers in an amount not less \$200.00 and up to \$2000.00 for each and every violation and clear title to property with fixtures in fee simple as a result of the aforementioned all with damages. The credit transaction is also rescindable.

COUNT III

1. Your solicitation implies that you will lend money or extend credit for purchases.
2. Your agreement implies that you lend money or extend credit. You do neither. You exchange credit to the borrower's "transaction accounts" This, according to the Federal Reserve Bank of Chicago's workbook "Modern Money Mechanics" at page 6 and 7 as well as other Federal Reserve Bank publications.
3. You call it a credit rather than an exchange.
4. Your agreement does not mention that the funding for the transaction is done with the charge slip, not with your assets.
5. You take the original charge slips and claim them as assets without the knowledge or permission of the owners.
6. You sell these charge slips and/or applications/agreements and retain the proceeds without the knowledge or permission of the owners.

7. You accept payments for charge slips which are no longer in your possession.
8. You know that the only evidence of debt is the original charge application yet you accept payment for these charges and retain the original instead of returning it to its lawful owner.
9. You misrepresent an account balance as being debt.
10. You harass Mortgage holders when they demand answers and explanations to these and other questions.
11. You use misinformation, lies, and deceit to confuse holders that confront you with these facts.
12. You threaten Mortgage holders with derogatory statements on their credit report if they demand explanations to these facts and statements.
13. You threaten holders with legal action if they confront you and demand explanations to these facts and statements.
14. Your actions and methods define racketeering.
15. Your agreement and methods of transactions are ultra vices.
16. You offer no or inadequate consideration for your agreement.
17. Your agreement lacks mutuality and your consideration is illusory since you retain the right to cancel or suspend the account without notice.

COUNT IV

1. There seems to be an elaborate scheme which has been perfected between the defendants to receive credits from the homeowner which has paid for the homestead, and then to charge through fraudulent agreements three to four times the original value of the property while through the aide of even government officials to place fraudulent liens, and claims upon the property and then steal by force the property from the homeowner. It has been brought to the

attention of our representatives that these so called lenders do not have the right to foreclose on something that they do not own, nor or holders in due course of.

Please take notice that the undersigned rescinds the application and any agreement between FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL and Charles Berry.

"Rescission of contract: To abrogate, annul, avoid, or cancel a contract; particularly, nullifying a contract by the act of a party.

The right of rescission is the right to cancel (rescind) a contract upon the occurrence of certain kinds of default by the other contracting party. To declare a contract void in its inception and to put an end to it as though it never were. Russell v Stephens, 191 Wash. 314, 71 P.2d 30, 31."

"A 'rescission' amounts to the unmaking of a contract, or an undoing of it from the beginning, and not merely a termination, and it may be effected by mutual agreement of parties, or by one of the parties declaring rescission of contract without consent of other if a legally sufficient ground therefore exist..." Abdallah, Inc. v. Martin, 242 Minn. 416, 65 N.W. 2d 641, 644.

Black's Law Dictionary, Sixth Edition, p. 1306.

"A rescission at law is one which occurs without the assistance of the courts, in which one party unilaterally cancels the contract in response to a material breach by the other party or for other valid reasons. It is accomplished when one party to a contract tenders or returns to the other party benefits received under a contract, and it simply means that

a party, by his or her acts, rescinds the agreement." 17B C.J.S. § 484.

This rescission is made on the grounds that the execution of the application/agreement by the undersigned was obtained through fraud, misrepresentation, and deceit, through the mutual mistake of both parties, and through the unilateral mistake of the undersigned induced by words, acts, and conduct business FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL as seller as well as fraud, extortion, and conversion during agreement.

The above facts and statements are evidence of the intentional and gross misrepresentation of material facts perpetrated by your solicitation material, application, and agreement and the reasons for this Notice of Rescission and Restoration of Status Quo.

On condition that restoration is made to the undersigned of all monies and things of value given, transferred, or conveyed by the undersigned in consideration of the applications/agreement, the undersigned offers to restore everything of value received by the undersigned and to surrender possession thereof simultaneously with your compliance with the conditions. Further, on compliance with the condition, the undersigned offers to do and perform all acts and things that might be necessary or proper to restore fully to FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL all properties and things of value received by the undersigned pursuant to or in consideration of the application/agreement, as fully and completely as if the application/agreement had never been made.

The undersigned demands the following from FREEMONT INVESTMENTS, INC.,

HSBC BANK, WELLS FARGO BANK ET AL:

1. Prove, with competent evidence, that the following statements by the Federal Reserve Bank of Chicago in their "Modern Money Mechanics" workbook, Revised February 1994, do not apply to FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL:
 - A. "Of Course, they do not really pay out loans from the money they receive as deposits. If they did this, no additional money would be created. What they do when they make loans is to accept promissory notes in exchange for credits to the borrowers' transaction accounts" At page 6.
 - B. "Loans are made by crediting the borrower's deposit account, i.e., by creating additional deposit money." At page 7.
 - C. That the law allows WELLS FARGO BANK ET AL to exchange promissory notes/charge slips for transaction account credits.
2. The originals of all charge documents that represent all previous payments;
3. Refund of all moneys not represented by original charge documents in "2" above;
4. Certified copies of all charge documents that represent the balance you allege to be owed on the above referenced account;
5. A sworn statement or affidavit stating the following:
 - A. The amount of money FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL alleges to have lent and is still owed;
 - B. That the above referenced charge documents accurately represent the mount state in "A" above;
 - C. That FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL's money was lent to obtain these charge documents from the merchant's bank;
 - D. That these charge documents did not fund the transaction;
 - E. That these charge documents will be returned to me immediately upon payment;
 - F. That my application did not fund these transactions.
 - G. That the account will be reported to the credit bureaus as "paid as agreed" upon receipt of payment.

Upon receipt of the above, undersigned agrees to pay the amount shown on the affidavit in 5A above.

Or, FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL may show the account "paid as agreed," send a zero balance statement to undersigned, notify all credit bureaus that the account is paid as agreed and consider the issue closed.

Please be informed. We are not questioning FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL's authority to lend money or negotiate instruments. Our complaint is the fraud propounded by the solicitation and agreement implying that money is being lent when, in fact, instruments are being exchange for transactions account/deposit account credits. If you are in fact lending money as your agreement implies, the above demands should be quite easy to fulfill and no honest business man would ever hesitate to do so.

FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL has thirty (30) days to respond. Failure to respond in a meaningful and constructive manner within thirty (30) days will be construed as admission on the part of FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL that the above reference facts and statements are correct, that the agreement has been rescinded with FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL's approval, that FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL has been completely restored, and that FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL agrees to report the account to the credit bureaus as "paid as agreed."

"Silence can only be equated with fraud when there is a legal or moral duty to speak, or when an inquiry left unanswered would be intentionally misleading...We cannot condone this shocking conduct...If that is the case we hope our message is clear. This sort of deception will not be tolerated and if this is routine it should be corrected immediately"

U.S. v Twell, 550 F2d 297, 299-300.

Should FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL refuse to abide by the default agreement above, FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL is hereby noticed that the undersigned withdraws their signatures from all papers, forms, and documents associated with the above referenced account and undersigned reserves the right to take any and all actions necessary to enforce undersigned's rights.

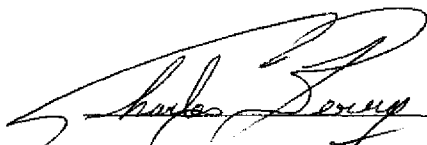
Undersigned hereby surrenders the above referenced account and all things related to it to FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL and withdraws any fiduciary responsibility for above referenced account. Please see Department of the Treasury, Internal revenue Service, Form 56 attached.

Should FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL hire a third party attorney, which is defined as a collection agency for purposes of the FDCPA and must validate the debt upon demand, FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL 'S refusal to respond in a meaningful way to this document will service as prima facie evidence that FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL is entering the suit with unclean hands.

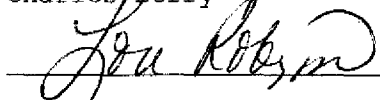
Should FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL do nothing and refuse to clear the undersigned's credit report, FREEMONT INVESTMENTS, INC., HSBC BANK, WELLS FARGO BANK ET AL acknowledges that this document along with the Notice of Default is adequate notice to all credit bureaus that the above referenced account should have it status changed to reflect "Closed, Paid as Agreed."

I, Charles Berry, knowing the penalty of bearing false witness, hereby affirm the foregoing to be true and correct to the best of my knowledge and belief and do affix my signature in testimony of the foregoing notice.

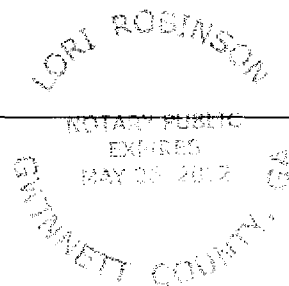
EXECUTED THIS 1 day of April ~~March 19~~, 2009.



Charles Berry



NOTARY PUBLIC



My commission expires:

Dated this 1 day of April ~~March~~, 2009
